

**IN THE CIRCUIT COURT OF MARION COUNTY, MISSOURI  
10th JUDICIAL CIRCUIT**

**MUNICIPAL DIVISION – THE CITY OF HANNIBAL**

**MUNICIPAL COURT OPERATING ORDER #1**

**Effective Date - 04-21-11**

The Court, on its own motion, makes the following General Orders with respect to the administration of the Court:

I. Court Administrator. The Court Administrator, and all deputy court administrators or court clerks, shall be responsible for the orders contained in Paragraphs II through X. The Court Administrator shall when applicable request the City Finance Department (“City”) to assist the Court Administrator to effectuate applicable provisions of Sections II, III, IV, V, VII, VIII and IX herein.

II. General Administrative Procedures.

A. Case Numbering. All cases filed by the prosecutor shall be assigned a unique number and indexed. All forms used by the Court shall be numbered sequentially and accounted for, including receipt slips, bond forms, tickets, summons, complaint forms, and payment agreements. (*Source: Supreme Court Operating Rule (COR) 4.04.; payment agreement source State Auditor recommendation.*)

B. Violation Bureau Schedule. Court Administrator Lisa Hays is appointed Violation Bureau Clerk. The Violation Bureau Schedule (which has been established by a separate court order) shall be prominently displayed at the payment window so that defendants wishing to pay tickets out of court may view the Schedule. (*Source: Supreme Court Rule (SCR) 37.49.*)

C. Budget. The Court Administrator shall communicate regularly with the Judge and the City regarding any budget issues involving the Court. Any budget disputes shall be resolved through a settlement conference with the Presiding Judge, if necessary. (*Sources: Mo. Constitution, Article II; COR 13.*)

### III. Reporting Requirements.

A. Reporting to the City. Within the first ten (10) days of each month, the Court Administrator shall submit to the City Clerk the dockets of all cases heard during the preceding month by the Court and those cases in which there was an application for a trial de novo. The City Clerk shall make a copy of the previous month's docket showing all case dispositions. If a record is closed under Chapter 610, RSMo., the Court Administrator shall not include the name of the defendant in the monthly report. For all cases that are nolle prossed, dismissed, or those in which the defendant is found not guilty, the Court Administrator shall supply all the required information, but black out the defendant's name. Supreme Court Operating Rule 4.29 allows the Court Administrator to substitute submission of the dockets to the City Clerk with a report for the previous month's activities, detailed income of the Court and the number of cases handled by the Court (the "*Municipal Division Summary Reporting*" form). The Court Administrator shall provide the Judge a copy of the report provided to the City. (*Source: 479.080.3 RSMo., COR 4.29*)

#### B. Reporting to the Department of Revenue.

1. Case Disposition. The Court Administrator shall report case disposition information on all moving traffic violations, alcohol and drug-related traffic offenses, including suspended imposition of sentence, all convictions while driving a commercial motor vehicle, including commercial driver's license holders driving a personal vehicle, to the Missouri Department of Revenue ("DOR"). The Court Administrator shall abide by the "Traffic Case Processing Procedures" found in Chapter 3 of the then current Missouri Municipal Clerk Manual ("Clerk Manual") published by the Office of State Court Administrator ("OSCA"). The Court Administrator shall assure that the disposition is received by the DOR within seven days of the disposition (*Source: 302.225.1 and 577.051 RSMo.*)

The Court Administrator shall complete the report by submitting a completed "Abstract of Court Record," portion of the Uniform Citation, or by submitting a completed "Record of Conviction" form referenced in Supreme Court Rule form 37.B – *Record of Conviction*. (*Source: SCR 37.B*)

2. Crime Victims Compensation Fund. The Court Administrator shall cause a \$7.50 Crime Victims Compensation Fund ("CVC") surcharge to be assessed on all nonmoving and moving traffic violations and all other nontraffic municipal ordinance violations, unless the case has been dismissed. The Court Administrator shall forthwith cause the CVC charge to be reported to DOR and disbursed as follows:

95% (\$7.13 of each fee) shall be sent to the DOR no less than monthly and 5% (\$.37 of each fee) to the general fund of City in accordance with IV.C, *infra*. (*Source: 488.5339 and 595.045 RSMo.*)

3. Abuse and Lose Procedures. In the event that the Judge shall enter an order suspending or revoking the defendant's driving privileges under the Abuse and Lose law, the Court Administrator shall send any Missouri license surrendered to the Court, along with the certified copy of the Order of Suspension on the official DOR form, to the DOR. The Court Administrator shall follow those procedures regarding Abuse and Lose reporting as set forth in Chapter 3 of the then current Clerk Manual. (*Source: 577.500 through 577.505 RSMo.*)

4. Failure to Appear or Pay -- License Suspension. The Court Administrator shall notify defendants within ten (10) days of that defendant's failure to dispose of a moving traffic violation, that the Court will order the DOR to suspend that defendant's license in thirty (30) days, if the charges are not disposed of or fully paid. Such notification may not be sent until a summons has been sent to the defendant and there shall thereafter be no appearance. The Court Administrator shall send the F.A.C.T. form to the DOR when a defendant has failed to appear on a court date after a summons has been issued to the defendant, when the defendant fails to appear on a subsequent court date to which the case has been continued, or, when the defendant, without good cause, fails to pay any fine or costs assessed against him or her.

Upon payment of all fines and costs, or, if earlier ordered by the Judge, a compliance notice on forms approved by the DOR shall be issued to the defendant, and the Court Administrator shall forthwith advise the DOR of such compliance. (*Source: 302.341 RSMo.*)

5. Withholding Renewal of License. In the event a driver shall fail to appear when ordered, and without being first granted a continuance, the Court Administrator shall notify the DOR within ten (10) days of the failure to appear, by using the "Lieu of Bail" form then supplied by the DOR except such notification shall not be required if the Court Administrator has utilized the notification procedures set forth in Paragraph 5, *supra*. When the case is disposed of, the Court Administrator shall report the disposition as on any other traffic case. (*Source: 544.045.4 RSMo.*)

6. Non-Resident Violator Program. In the event a defendant who is not a resident of Missouri fails to appear, the defendant shall be notified by regular mail and given a specific amount of time to dispose of the traffic ticket before notification is made to DOR. If defendant fails to comply, the Court Administrator shall forward the Non-Resident Violator Compact Form provided by DOR, to DOR. This provision shall be in effect for non-resident defendants from all other states in the United States which are members of the Non-Resident Violator Compact. (*Source: 544.046 RSMo.*)

7. Driver Improvement Programs. In the event that the Judge has ordered a defendant to complete the Driver Improvement Program, the Court Administrator shall send notice of its completion to the DOR within fifteen (15) days of Program completion. The Court Administrator shall not send any notice of the Driver Improvement Program if the

moving traffic violation has been amended to a nonmoving violation by the Prosecutor. (Source: 302.302 RSMo.)

8. Ignition Interlock Device. When the Judge shall order the use of an ignition interlock device, the Court Administrator shall forthwith send the Order to install ignition interlock device to DOR properly executed, containing the requirements for the period of the use of the ignition interlock device. (Source: 577.600 through 577.614 RSMo.)

C. Reporting to OSCA.

The Court Administrator shall insure that required reporting information is transmitted either electronically or manually in a format according to provisions of Supreme Court Operating Rule 4.28. The Court Administrator shall insure the accuracy of data entered in the case management system. This information shall be submitted to OSCA no later than the 15th day of each month, with data completed from the previous month's court activity. (Source: COR 4.28)

D. Reporting to the Missouri State Highway Patrol (Criminal History Reporting including Intoxication-Related Traffic Offenses, "Fingerprint Cards").

The Court Administrator shall report to the Missouri State Highway Patrol any violations of municipal ordinances involving alcohol or drug related driving offenses or any violations deemed to be "comparable ordinance violations" as defined by Section 43.503 RSMo. and as listed in the Missouri State Charge Code Manual. The Court Administrator shall report violations without undue delay or within 30 days of case disposition.

At any court appearance for any reportable offense, the Court Administrator shall inform the Court that the defendant needs to be fingerprinted and photographed, if not already obtained. The order for fingerprints shall contain the offense, charge code, date of offense and any other information necessary to complete the reporting.

For any reportable violation, the Court Administrator shall report to the Missouri State Highway Patrol a record of all charges filed, including all those added subsequent to the filing of the case, amended charges, and all final dispositions of cases where the central repository has a record of an arrest. The Court Administrator shall abide by reporting requirements found in Section 3 of the then current Municipal Clerk's Manual. (Source: 43.503 RSMo.)

Dispositions that must be reported to the Missouri State Highway Patrol are:

- Not guilty, dismissed, nolle prossed or acquittal
- Plea of guilty or finding of guilt
- Suspended imposition of sentence
- Suspended execution of sentence
- Probation
- Conditional sentences

- Sentences of confinement

The Court Administrator shall insure that required reporting information is transmitted manually by completing and sending to the Missouri State Highway Patrol the Prosecutor Action and/or Court Action Segment(s) of the State Criminal Fingerprint Card, which contains an Offense Cycle Number (OCN), pursuant to 43.506 RSMo. (*Source: Chapter 43.503 and 43.506 RSMo.*)

E. Reporting to Circuit Court en Banc

The Court Administrator shall prepare a report every six months which shall include, but shall not be limited to, the total number and disposition of every intoxication-related traffic offense adjudicated, dismissed or pending in its municipal court division. The municipal court division shall submit said report to the circuit court en banc. The report shall include the six month period beginning January first and ending June thirtieth and the six month period beginning July first and ending December thirty-first of each year. The report shall be submitted to the circuit court en banc no later than sixty days following the end of the reporting period. (*Source: 577.006 RSMo.*)

The Court Administrator shall send the intoxication-related traffic offense case activity reports to the Presiding Judge no later than August 29 for the January to June reporting period and no later than February 28 for the July to December reporting period.

Unless instructed by the circuit court to provide additional information or report in a different manner, the Court Administrator shall use the "Municipal Division Summary Reporting Form" that is submitted monthly to OSCA to meet the bi-annual reporting requirement to the circuit court en banc. The Court Administrator shall make copies of each month's report for the required reporting period and send along with a cover letter to the presiding judge of the circuit.

F. Reporting to OSCA and MSHP (Intoxication-Related Traffic Offense Written Policy)

The Court Administrator shall provide a signed copy of this Municipal Court Operating Order #1 to the Missouri State Highway Patrol and the Office of the State Courts Administrator at the addresses shown below. If any revisions are made to this order the Court Administrator shall provide a revised copy to the Missouri State Highway Patrol and Office of the State Courts Administrator's Office (*Source: 577.006.RSMo.*)

Addresses and facsimile numbers where copies shall be sent are:

Office of State Courts Administrator  
Attention: Court Services Division, DWI Reporting Policy  
PO Box 104480  
2112 Industrial Drive  
Jefferson City, Missouri 65110  
Fax: 573-522-5961

Missouri State Highway Patrol  
Criminal Justice Information Services Division  
Attention: Captain Timothy McGrail  
PO Box 9500  
Jefferson City, MO 65102  
Fax: 573-751-9382

IV. Fines, Court Costs, Surcharges and Fidelity Bonds.

A. Collection of Fines, Court Costs, and Surcharges. The Court Administrator shall use his/her best efforts so that on each case, fines assessed and general court costs in the amount as set forth by ordinance, CVC surcharges, Peace Officer Standards & Training Commission (POST) surcharges, Law Enforcement Training Fund (“LETf”) surcharge, recoupment, domestic violence, inmate security and other surcharges as are set forth by City ordinance, are collected and remitted timely to City and to DOR, respectively, in accordance with this Order. The Court Administrator is not required to refund any overpayment of court costs of \$5.00 or less. The Court Administrator is not required to pursue collection of underpayments of court costs of less than \$5.00.

The Court Administrator shall pay the over paid funds to the city on a regular basis in the event that there is an overpayment of \$5.00 or less and a written agreement exists with the county that allows the city to retain the overpayments.

*(Sources: Court Cost: City Ordinance; CVC: 488.5339 RSMo. and 595.045 RSMo.; POST: 488.5336 RSMo.; LETf: 488.5336 RSMo.; Overpayments/Underpayments: 488.014 RSMo.)*

B. Receipts for Payment of Fines, Court Costs and Surcharges. The Court Administrator shall issue a pre-numbered receipt for all collections and provide such a receipt to the payer if payment is made in person, and retain a duplicate copy of the receipt in the receipt book or approved automated system. If payment is made by mail, the Court Administrator shall file the original copy of the receipt with the case file information, or maintain the original receipt in a pre-numbered receipt book or approved automated system cross-referenced with the docket entry, unless the payer requests the receipt be returned by mail, and provides a self-addressed, stamped envelope. *(Source: COR 4.53 and Chapter 4.5 Clerk Manual)*

C. Deposit of Fines, Costs, Surcharges and Bonds to be placed into Applicable Accounts. The Court Administrator shall deposit all fines, costs, surcharges and bonds collected in the Court's or City's bank accounts on a daily basis, or when the amount on hand reaches \$100.00, if not on a daily basis. The Court Administrator shall, to the extent possible, work jointly with the City to effectuate all deposits by delivery of same for deposit by police officers or other City personnel. The Court Administrator shall cause specific surcharges, including, but not limited to, CVC, POST, LETF, police recoupment, and, if applicable, domestic violence and inmate security surcharges, to be placed as separate line items or in separate accounts and to be remitted to the proper entity or account no less than monthly. *(Source: COR 21 and Chapter 4.5 Clerk Manual)*

D. Fidelity Bonds. In order to follow recommendations of the State Auditor, the Court Administrator shall request the City to maintain fidelity bonds covering the Court Administrator and other personnel who handle collection or deposit of fines, court costs and surcharges related to the Court. The Court Administrator shall obtain a copy of the declaration sheets of any such bonds obtained by the City to keep in the Court permanent files. *(Source: Chapter 4.5 Clerk Manual)*

V. Surety Bonds.

A. Bond Qualifications. The Court Administrator shall keep a list of those sureties who have qualified to post surety bonds. No person shall be accepted as a surety on any bail bond unless he or she is licensed by the Department of Insurance. *(Source: SCR 37.29 and 374.710 RSMo.)*

No lawyer, elected or appointed official or municipal or state employee shall be accepted as a surety on any bond unless related to the defendant.

B. Surety Bond Receipts. The Court Administrator shall use his or her best efforts to act in conjunction with the City Police Department, to establish guidelines on cash bonds. The Court Administrator shall post the bond amount to the individual case and note the date and type of bond received.

The Court Administrator shall, whenever possible, request that personnel of the City or other court administrators together with the Court Administrator count all bond money. The Court Administrator shall deposit said bond money according to the City's guidelines. The Court Administrator shall maintain said bond account and reconcile said account on a monthly basis. An open bond case report shall be submitted monthly to the City by the Court Administrator. *(Source: Chapter 2, Clerk Manual)*

C. Unclaimed Bond Funds and other Funds. The Court Administrator shall follow those procedures set forth in the then current Clerk Manual to pay to the State Treasurer's Office Unclaimed Property Division, all funds unclaimed for three years and cash bonds unclaimed for one year, from the date the bond was due back to a person. The Court Administrator shall send a letter of notification and otherwise reasonably attempt to contact

the person and return the funds. Said report shall be sent to the State Treasurer's Office by November 1<sup>st</sup> of each year, and the Court Administrator shall remit said unclaimed funds with the report. The Court Administrator shall request the City assist in processing, reporting and remitting to the State Treasurer. (*Source: 447.532 RSMo. and 447.595 RSMo.*)

VI. Warrants. The Court Administrator shall follow those procedures and guidelines concerning warrants as are set forth in Chapter 2 of the then current Clerk's Manual, unless otherwise directed by the Judge. (*Source: Chapter 2, Clerk Manual*)

VII. Administrative Search Warrants. The Court Administrator shall keep the application and any supporting affidavits, and a copy of all search warrants issued by the municipal judge in the records of the municipal court. (*Source: Chapter 542RSMo.*)

VIII. Accounting Procedures. The Court Administrator shall to the fullest extent possible abide those accounting procedures as are mandated by COR 4.51 and which procedures are set forth in Chapter 4 of the then current edition of the Clerk Manual entitled "Recommended Accounting Procedures for Municipal Divisions." In particular, the Court Administrator shall:

A. Reconcile bank statements monthly and same shall be reviewed by a person independent of the Court.

B. Maintain all funds that are being held in trust by the Court and reconcile monthly. All unusual items or exceptions shall be investigated promptly.

C. Ensure all payments on accounts are receipted, recorded to the accounts, and deposited intact.

D. Work jointly with the Police Department to account for all traffic tickets in numerical sequence and maintain a record of the disposition of all tickets assigned and issued by the Police Department.

E. Maintain all the Court's records except for those permitted to be destroyed or transferred in accordance with Supreme Court Operating Rule 8.

F. Not waive any fine, court costs or surcharge, or agree to collect a different amount of fine, court costs or surcharge than that amount listed in the Violation Bureau Schedule or what has been assessed by a Court Order, except as discussed in IV.A *supra*.

G. Develop a system for independent monitoring, receiving and depositing monies as an independent task segregated from the recording and disbursement of collections. In the event that such duties cannot be segregated, at a minimum, the Court Administrator shall request the City develop a documented independent comparison of receipt slips issued in the amount and composition of deposits, and independent review of the bank statements and month-end reconciliations. (*Source COR 4.51*)

IX. Confidential and Closed Records.

A. Identify Records. The Court Administrator shall identify all Court records that contain confidential information and maintain all confidential records in accordance with those procedures set forth in Chapter 5 of the then current Clerk Manual. The Court Administrator shall permit closed records to be inspected by the defendants, courts, and those agencies as are set forth in 610.120 RSMo. The Court Administrator shall identify all Court records (including docket entries for cases that have been nolle prossed, dismissed, Substance Abuse Traffic Offender Program (SATOP), or the defendant found not guilty) that contain confidential information. The Court Administrator on behalf of the Judge shall request the City provide adequate and secure file cabinets for the retention of confidential records and closed files. (*Source: 610.120 RSMo.*)

B. Confidentiality of SATOP Programs. If the Court orders the defendant to participate in a SATOP program, the Court Administrator shall file all documents received from the program provider in the case file, and all documents relating to the program assessment, assignments and completion shall remain confidential. (*Source: CFR Part 2, (42 U.S.C. 290 dd-3)*).

X. Record Retention and Destruction. The Court Administrator shall retain all Court records unless there shall be an order signed by the Presiding Judge of the Circuit Court to destroy same. The Court Administrator shall follow Missouri Supreme Court Operating Rule 8 and the City shall cooperate with the Court Administrator to follow a regular schedule to destroy and/or transfer cases eligible for transfer or destruction in accordance with Supreme Court Operating Rule 8. The Court Administrator shall abide by those recommended procedures set forth in Chapter 5 of the then current Clerk Manual. All requests to destroy or transfer records shall be signed by the Presiding Judge. (*Source: COR 8.03.*)

XI. Marriage Records. If the Judge performs marriages, the Court Administrator shall communicate with parties desiring to have a marriage solemnized by the Judge. The Administrator shall require that the parties provide a marriage license and a Certificate of Marriage blank form to the Court at least 24 before a scheduled wedding to ensure adequate review of such license.

The Court Administrator shall assist the Judge in completing the license and the Certificate of Marriage. The Court Administrator shall retain a full record of the solemnization performed by making a copy of the completed marriage license and a copy of the executed Certificate of Marriage, and keeping both documents in a permanent binder or folder. The Court Administrator shall cause the executed marriage license return to be sent to the appropriate licensing official as soon as possible, but not later than 10 days after the marriage is performed. (*Source: 451.110 through 451.130 RSMo.*)

So Ordered:

DATE 21 April

Frederick D. [Signature]  
Judge, City of London

**IN THE CIRCUIT COURT OF MARION COUNTY, MISSOURI  
10<sup>TH</sup> JUDICIAL CIRCUIT**

**MUNICIPAL DIVISION – THE CITY OF HANNIBAL**

**MUNICIPAL COURT OPERATING ORDER #2  
OPEN ACCESS TO COURT SESSIONS AND RELATED ORDERS**

**Effective Date: July 1, 2015**

**GENERAL ORDER #2**

**I. GENERAL RULE.**

A. Except as limited in these General Orders, every session in this Court shall be public and every person may freely attend the same.<sup>1</sup>

B. All Court personnel, including, but not limited to, prosecutors, Court administrators, bailiffs and police officers, shall abide by this General Rule, except for permitted limitations set forth in these General Orders.

**II. EXCEPTIONS AND LIMITATIONS TO THE ABOVE GENERAL RULE.**

A. Disruptive Persons.

If any person attending a Court session shall become disruptive in any manner, including, but not limited to, talking in anything other than a respectful whisper, creating other noise, not remaining seated, or in any other way becoming disruptive as observed by the Court personnel, that person shall be first cautioned by Court personnel, and if the offensive conduct is not immediately corrected, removed from the Courtroom. The name of any defendant associated with the disruptive person shall be recorded. The defendant may be allowed to stay outside until the Judge permits re-entry to take up defendant's case.

B. Persons under the Clear Influence of Alcohol or Drugs.

If any person attending a court session shall appear to Court personnel be clearly under the influence of alcohol and/or drugs, that person shall be, if a defendant, asked for his or her name and then be asked to leave the Courtroom. The defendant shall be asked to remain outside the Courtroom for determination by the Court whether

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<sup>1</sup> 476.170 RSMo (2007)

to continue the matter or take other action. If the affected person is not a defendant or witness in a trial, that person shall be removed from the Courtroom.

C. Appropriate Attire.

When a person who desires to enter the Courtroom does not meet the Court Dress Code (attached as an appendix to these General Orders), Court personnel shall require that said person leave the Courtroom until such time as the person is appropriately dressed to meet the Code, or the Judge may continue the case upon request of the prosecutor or defendant.

D. Overcrowding in Violation of the Fire Code.

In the event of large attendance, bailiffs, police officers and other Court personnel shall count the persons present in the Courtroom and shall limit access so as not to be in violation of the Fire Code. The number of persons who may be present in the Courtroom without violation of the Fire Code is sixty (60).

When it appears to the Court during any single Court session, that there will be more persons attempting to enter the Courtroom than are permitted under the Fire Code, then the court shall take such appropriate action as would be consistent with all legal and constitutional requirements.

E. Children.

Unless present in Court as a defendant in a traffic case, persons under the age of seventeen (17) shall be accompanied by an adult. When a child becomes noisy or will not remain seated, the parents of that child will be asked to remove said child or children. The bailiff or police officer shall record the name of the defendant associated with the child, and ask that the defendant and children remain in the hallway or outside the Courtroom until their name is called on the docket. At such time as the defendant's name is called, the bailiff shall summon the family, including children, who may then enter the Courtroom for purposes of arraignment or other business with the Court.

The Court may exclude children if the nature of a matter being heard may be, in the Court's discretion, inappropriate to children.

The following language is permitted to be inserted on the Court website and, when appropriate, on Court correspondence, and on Court signage:

"It is strongly encouraged that children are not brought into the Courtroom. If children must be in the Courtroom, they must be well-behaved, quiet, and must not disturb Court."

III. FACILITIES.

During trial sessions, the Courtroom shall be divided into a trial area and a spectator area. The trial area shall be separated from the spectator area by a railing, or

a space if there be no railing. There shall be dedicated chairs for the prosecutor, for the defendant and for testifying witnesses.

#### IV. CLOSING OF THE COURTROOM.

Other than closure to those persons as set forth in Sections II.A. – II.E., if the Judge, prosecutor or defense counsel desires to close the Courtroom during any particular motion or trial, the Court will conduct a brief hearing on whether to enter an order to close the proceedings. Guidelines for such closure shall be as follows:

A. The proponent of closure must present a showing of a compelling interest for such closure and where that need is based upon a right other than the accused's right to a fair trial, the proponent must show a "serious and imminent threat" to that right.

B. Anyone present in the Courtroom when the closure motion is made, must be given an opportunity to object to the closure.

C. The proposed method for curtailing open access shall be in the least restrictive means available for protecting the threatened's interest.

D. This Court will weigh the compelling interest of the proponent of closure and the public.

E. The order shall be no broader in its application or duration than necessary to serve its purpose.

#### V. RETENTION OF RIGHTS.

The Judge retains the right to post and enforce additional rules of conduct in order to maintain the integrity and decorum of the Courtroom.

#### VI. OTHER RULES.

A. Court personnel shall not refuse entry by any person, whether defendant or other person, except and unless such person shall be in violation of the Dress Code, is acting in an inappropriate manner, or if such entrance would violate the Fire Code. Court personnel shall have the right to ask persons entering the Courtroom if they are a defendant or visitor, but only for purposes of directing where to sit, or to mark a name off the docket. Court personnel shall have the right to check purses, camera bags, and similar items.

B. The Court's website and general correspondence shall not state that certain persons are prevented from attending any session of Court, except there may be reference to discouragement of children in Court, and that those not in compliance with the Court Dress Code will not be admitted.

VII. ACCESS

The Court adopts the following Plan to provide as much access as practicable in Court sessions during which there are anticipated to be more persons wishing to enter the Courtroom than the Fire Code permits.

A. The Court shall extend Court hours if a larger than normal crowd is expected to attend, by conducting arraignments, pleas, and trials, on dates other than on the arraignment morning, and by beginning Court earlier than the normal starting time for pleas.

B. The Court shall permit pleas by mail, provided the defendant waives presence in the Court as required under MRCP 37.64(b).

C. The Court shall add additional Court nights for arraignments or trials.

D. The Court shall require the police and Court administrators to cooperate with the Court Plan to stagger Court appearance times as shown on tickets and summons on any particular Court night, and the Court administrator shall coordinate with police and housing officers to effectuate this Plan.

E. The Court shall permit those defendants who are accompanied by young children, or accompanied by observers, to remain outside the Courtroom until the defendant's case is called.

F. The Court administrator shall encourage those persons whose case is over to exit the Courtroom rapidly, but not require them to so exit.

These General Orders shall be effective as above stated on the 1<sup>st</sup> day of July, 2015, and are subject to amended orders as circumstances dictate.

So Ordered:

Date: 1 July 2015

  
Municipal Judge

cc: Court Administrator  
Prosecuting Attorney  
City Attorney

**IN THE CIRCUIT COURT OF MARION COUNTY, MISSOURI  
10<sup>TH</sup> JUDICIAL CIRCUIT  
MUNICIPAL DIVISION – THE CITY OF HANNIBAL**

**MUNICIPAL COURT OPERATING ORDER #3**

**Effective Date: JULY 1, 2105, Amended effective November 1, 2015**

**GENERAL ORDER #3**

**I. PURPOSE**

The purpose of these general orders is to reaffirm the Court's commitment to adherence to all statutory provisions and the mandates of the United States and Missouri Constitutions. The Court shall provide open access to all with clearly defined procedures designed to afford defendants, the City, County, and witnesses, with transparency, equal treatment and protections mandated by law.

The following orders are effective as of the above date. The Court reserves the right to modify the following orders, from time to time, as circumstances dictate.

**II. GENERAL COURT PROCEDURES.**

**A. Open Access.**

The Court hereby ratifies Court Operating Order #2.

**B. Fax, Electronic Memoranda, and Answering Telephone.**

1. This Court shall be always open for purposes of receiving faxes, electronic entries of appearance and motions. Notwithstanding, entries of appearances and motions for continuances shall be submitted for any particular court session no later than twenty-four (24) hours prior to the scheduled court date.

2. Requests for warrant recall may be submitted by fax or, if specifically approved by the judge, by scanned document sent by email, provided that no request for warrant recall shall be granted until an entry of appearance shall already have been filed or filed simultaneously with the request.

3. To the extent practicable, court personnel shall be available to answer phone calls during all business hours of court, including on days when court is held, but if there is only one court administrator, the court administrator may cease taking telephone calls two (2) hours before court is scheduled.

**C. Opening/Closing of Court Doors.**

Court personnel shall open the doors to the courtroom at least one-half hour prior to the commencement of the Court's docket, unless a different order of the Court shall specify otherwise. In any event, defendant, if he or she arrives less than one-half hour before Court, shall not be required to wait outside the courtroom building.

When court begins or when the maximum seating capacity of the courtroom shall have been reached, the courtroom doors will be closed. Persons who arrive on time, but cannot be seated because of a lack of courtroom seating will be allowed to wait for a second session of court the same day, or if given a new court date, will not be considered to have failed to appear on time for court. Those who arrive after the opening of court will be allowed to wait for a second session of court the same day, or if given a new court date, will be considered to have failed to appear on time for court.

D. **Access to Court Files.**

Attorneys of record shall have access to the Court's files during regular business hours of the Court. Requests to view files not on the docket must be made prior to the start of the docket. Court administrators shall not be required to pull files not on the docket during court docket unless there is sufficient time to do so.

E. **Rights in Court.**

The Court shall inform Defendants of their general rights. "**Your Rights in Court**" shall be placed on the Court's website, and shall be prominently displayed in the courtroom.

F. **Official Notices.**

The Court Administrator shall publish the notice below set forth on the Court's website, and to the extent available, shall cooperate with the police department to include the same on Uniform Citations, or on cards to be given to defendants.

The notice shall read essentially as follows:

**MESSAGE FROM HANNIBAL MUNICIPAL COURT**

*You have been notified that you are to come to court on the date shown on your ticket.*

*You may plead not guilty by coming to court and a trial date will be set.*

*You may plead guilty by mail or by coming to the Hannibal Municipal Court to pay your fine.*

*If you plead guilty, you will be given a new date to pay if you can't pay the day of court.*

*If you want to plead guilty, but you don't have the funds to pay your ticket, you still must come to court. You will not be arrested for not having money to pay.*

*If you do not come to court, a summons may be issued. If you do not come to court when summoned to do so, you are subject to a warrant being issued for your arrest.*

**G. Issuance of Summons and Warrants**

If a person who is issued a Uniform Citation for a Minor Traffic Violation does not appear on the date specified on the Uniform Citation, a Summons will be issued in the form specified in Supreme Court Rule 37.42 and served by first class mail as specified in Supreme Court Rule 37.44(a). If said person does not appear on this Summons, a second Summons will be issued to be served by Certified mail, return receipt requested. If said person does not appear on the Summons served by Certified mail, a warrant may be issued as provided in the Supreme Court rules. Any warrant so issued for a Minor Traffic Violation shall allow the defendant to be released on their own recognizance (ROR). Failure to respond to said warrant may subject said person to an Order to Show Cause why they should not be held in contempt.

**H. Fines, Costs and Surcharges.**

This Court shall abide by the limits set by law for fines, court costs, surcharges and fees. This Court shall not charge any fine, court cost, surcharge, or fee, not authorized by the current schedule published by the Office of State Court Administrators. This order shall not be construed to prevent payment of special deterrent fees or restitution as permitted by law or the Judicial Commission.

**I. Access required by ADA**

Pursuant to the American with Disabilities Act and §§ 476.750 through 476.766 RSMo, this court shall provide, based on expressed needs, auxiliary aids or services to interpret any proceeding for a deaf person. This requirement applies to a person who is a party or witness, and the parent, guardian, foster parent or legally responsible party of a juvenile defendant.

**III. ORDERS CONCERNING DEFENDANT'S RIGHTS**

**A. Continuances.**

A defendant or defendant's counsel may request a continuance so as the request is made prior to the first court setting. Such continuance shall generally be granted, unless the judge has required a personal appearance. A request made by a defendant or defendant's counsel must provide sufficient information to the Court Administrator regarding the identity of the defendant. If a defendant appears at the first court session after receiving a summons or ticket, he or she shall have the right to request one continuance in order to obtain counsel or for any other reason, or for no reason at all. Any request for a continuance after the first appearance shall be in the sole discretion of the Court.

**B. Delayed Payments**

When a fine is assessed and it appears to the judge that the defendant does not have at that time the present means to pay the fine, the judge shall order a stay of execution on the payment of the fine and: (1) Grant the defendant a specified period of time within which to pay the fine in full, or (2) Provide for the payment of the fine on an installment basis under such terms and conditions as the judge may deem appropriate.

The judge may issue an order to show cause, consistent with Rule 36.01(b), for the defendant to appear in court at a future date in the event the fine is not paid in the time specified by the judge. In the event the defendant fails to appear at that future date, the court may issue a warrant to secure the defendant's appearance for a hearing on the order to show cause.

C. **Payment Plans.**

Upon application of the defendant or defendant's counsel, the Court will use its best efforts to conduct a fact-finding inquiry into the determination of the applicability of a payment plan, on a case-by-case basis. The Court may have an outside agency assist in such determination. In cases where a payment plan is deemed appropriate, the Court will fashion the payment plan to suit each case.

The Court shall utilize the Payment Plan Schedule adopted by the Court, except in the case where the judge approves a payment plan different than the Payment Plan, or as agreed between the prosecutor and defendant or defendant's counsel.

D. **No Detention or Arrest Due to Inability to Pay.**

No defendant shall be arrested or detained for any length of time solely on the basis of his or her inability to pay fines and/or costs. Notwithstanding, the Court may, in its discretion, conduct its payment docket other than the call or trial docket.

E. **Response to Nonpayment**

If a defendant defaults in the payment of the fine or any installment thereof, the judge may issue an order to show cause why the defendant should not be held in contempt of court. The judge shall issue a summons for the defendant's appearance on the order to show cause unless the defendant was ordered to appear at a future date as provided in Rule 37.65(b). If the defendant fails to appear on the summons, the court may then issue a warrant to secure the defendant's appearance for a hearing on the order to show cause. The summons may be served by the clerk mailing it to the defendant's last known address by first class mail.

If following the show cause hearing the judge finds the defendant intentionally refused to obey the sentence of the court or to have made a good faith effort to obtain the necessary funds for payment, the judge may confine the defendant for a term not to exceed thirty days for contempt of court. If the judge finds that the failure to pay the fine is excusable, the judge shall enter an order allowing the defendant additional time for payment, or may modify the method of payment or waive the collection of all or part of any unpaid portion of the fine.

Upon default in the payment of a fine or any installment thereof, the fine may be collected by any means authorized by law for the enforcement of money judgments.<sup>1</sup>

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<sup>1</sup> Supreme Court Rule 37.65

F. **Public Defender and Volunteer Legal Advisor Program.**

1. **Public Defender.**

The Court shall, in conjunction with the City's finance department, dedicate \$1.00 from the basic \$12.00 court costs, for a public defender program, to be managed in accordance and under the authority set forth in § 479.260 RSMo. In accordance with such program, the Court shall designate one or more public defenders, who shall be assigned cases in which the prosecutor has represented to the Court, or the Court has determined, may result in incarceration upon conviction. The Court shall set reasonable fees for such public defender services as per City ordinance, or court order.

2. **Volunteer Legal Advisor Program ("VLAP").**

The Court shall, to the extent permitted by law or Supreme Court Order, permit voluntary legal advisors ("VLAs") who are a part of the VLAP approved by the Presiding Judge. The Court may appoint VLAs and assign them in the Court's discretion, and the Court shall follow the VLAP guidelines as approved by the Presiding Judge.

G. **Warrants and Bonds**

1. The Court shall hear in person, by telephone or video conference all defendants arrested upon initial arrest warrant as soon as practicable, but no later than forty-eight (48) hours for minor traffic violations and seventy-two (72) hours after arrest for other violations. The defendant shall be released upon his own recognizance if not heard as aforesaid.

2. The Court shall either release, or set bond and sign a warrant of commitment after charges have been filed by the prosecutor within twenty-four hours (24) of a defendant's initial arrest.

3. The Court shall adhere to the Bond Schedule as adopted by the Municipal Court and approved by the Presiding Judge. However, nothing herein shall prohibit the judge from setting a higher or lower bond upon request by the prosecutor or defense counsel, on a case-by-case basis.

4. No FACT warrant or other fail to appear charge will be issued for Minor Traffic Violations. Persons who fail to appear at their initial court date will be summoned to a subsequent appearance date, except those who fail to appear after a warrant has been served. Those who fail to appear after having been served a warrant will be subject to a charge of Fail to Appear.

H. **License Deposit in Lieu of Bail**

Any person arrested and charged with violating a traffic ordinance of this city, may deposit his license to operate a motor vehicle with the officer demanding bail in lieu of any other security for his appearance in court to answer any such charge,

except when the charge is for driving while intoxicated, driving while under the influence of intoxicating liquor or drugs, leaving the scene of a motor vehicle accident, driving when his license is suspended or revoked, or for any charge made because of a motor vehicle accident in which a death has occurred.

Notwithstanding the fact that this rule of court to accept bail authorizes the person arrested to deposit his license to operate a motor vehicle as his security for his appearance in court, in lieu of depositing his license to operate a motor vehicle, the person arrested may decline to deposit his license to operate a motor vehicle as security and instead deposit a bond in the amount of fifty dollars per traffic offense allegedly committed. The officer shall issue a receipt for such a bond to the person and deposit the bond with the judge, court clerk or other officer requiring security for a court appearance.

The judge, court clerk or other officer requiring security for an appearance shall accept the bond or deposit of the license in lieu of bail and, if the license is accepted, shall issue a receipt to the licensee for the license upon a form approved by the director of revenue. The licensee may, until he has appeared at the proper time and place as stated in the receipt to answer the charge placed against him, operate motor vehicles while in possession of the receipt, and the receipt shall be accepted in lieu of the license as provided by section 302.181, RSMo. If a continuance is requested and granted, the licensee shall be given a new receipt for his license.

Whether or not a license to operate a motor vehicle has been deposited in lieu of bail pursuant to this section, if the driver fails to appear at the proper time to answer the charge placed against him, the clerk of the court, or the judge of the court if there is no clerk, shall within ten days notify the director of revenue of the failure to appear, and the director shall thereafter withhold any renewal of the license or the issuance of a duplicate license to the licensee until notified by the court that the charge has been reduced to final judgment.<sup>2</sup>

#### **IV. VIOLATION BUREAU**

This Court hereby adopts the Violation Bureau Schedule as approved by the Presiding Judge of the Circuit Court. The Court reserves the right to set other fines to be paid in the Violation Bureau, which are not part of the Violation Bureau Schedule.

#### **V. SPECIAL ORDERS – FAILURE TO APPEAR AND ALTERNATIVE COMMUNITY SERVICE**

##### **A. Failure to Appear.**

The City's failure to appear ("FTA") ordinance will remain in effect. Notwithstanding, the Court orders the following:

1. FTA charges shall not be issued concurrently with the issuance of warrants, rather, a FTA charge may be filed by the prosecutor after a warrant is executed.

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<sup>2</sup> RSMo §544.045

2. When an attorney enters his or her appearance, warrants on routine traffic offenses, not to include DWI, DWR, DWS, or leaving the scene of an accident, shall be immediately recalled. The foregoing warrant recall order shall not be applicable if a defendant has previously failed to appear more than twice in the same case or series of cases. The judge in his or her discretion may require the defendant to appear on the court's docket with the defendant's attorney if the defendant has more than one prior FTA.

3. The Court will not consider multiple FTA charges for one missed court appearance, although defendant may have more than one offense before the Court.

4. FTA violations shall be prosecuted by information signed by the prosecutor bearing a separate case number. The trial court may sua sponte dismiss any failure to appear charge without cost if no information is filed.

5. In-state FTA suspensions shall be recalled when a defendant's case has been placed back on the docket after a warrant has been issued, but recalled. There shall be no separate order required for the FTA suspension to be recalled.

6. FTA suspensions shall be issued only on moving traffic violations, and shall not be issued on non-moving traffic violations.

7. Defendants who fail to appear on a payment docket shall be sent an order to show cause along with notice of a new court date prior to the issuance of a warrant, and the docket shall so reflect.

B. Alternative Community Service.

The Court may order alternative community service as a condition of probation, as a sentencing option or in lieu of a fine or imprisonment or both as authorized by state and/or local ordinance. If no ordinance exists, a City may adopt an ordinance authorizing the use of alternative community service in lieu of a fine or jail. Pursuant to § 479.190 RSMo a municipality or court is immune from any suit by the person ordered to complete alternative community service except for intentional torts or gross negligence. A list of agencies offering alternative community service is attached hereto.

This Amended General Order shall be effective as above stated on the 1<sup>st</sup> day of November, 2015, and are subject to amended orders as circumstances dictate.

**SO ORDERED:**

Date: October 31, 2015

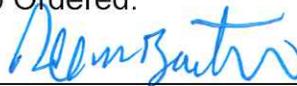
  
Municipal Judge

cc: Court Administrator  
Prosecuting Attorney  
City Attorney

Re-Approved:

November 22, 2017

So Ordered:

A handwritten signature in blue ink, appearing to read "DeMunster", written over a horizontal line.

Judge, City of Hannibal